

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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	:	
TRANSCIENCE CORPORATION &	:	
YOLANDA VON BRAUNHUT (individual)	:	
Plaintiffs	:	Index No.: 13 CV 6642
	:	
-against-	:	
	:	<b>Plaintiffs' Motion for</b>
	:	<b>Preliminary Injunctive Relief</b>
BIG TIME TOYS, LLC	:	
Defendant.	:	
	x	

**PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTIVE RELIEF**

To the HONORABLE UNITED STATES DISTRICT COURT JUDGE EDGARDO RAMOS:

Plaintiffs Transcience Corporation & Yolanda von Braunhut (individual), acting by and through attorney William Timmons, Esq. of New York, hereby make this **MOTION FOR PRELIMINARY INJUNCTIVE RELIEF** to and against Defendant Big Time Toys, LLC located at 708 Berry Road, Nashville, TN 37204 and allege the following in support thereof:

**BACKGROUND**

This action, alleging trademark infringement *inter alia*, was commenced by Plaintiffs against the Defendant on September 19<sup>th</sup> of 2013. Plaintiffs brought the suit to compel the Defendant to cease selling Plaintiffs' trademarked Sea-Monkeys® product and for the recovery of profits unjustly obtained by Defendant at Plaintiffs' expense. Defendant had previously sold the trademarked product under a prior license but continued (*and continues*) to sell the trademarked product after the license was terminated pursuant to the terms of the license.

Plaintiffs duly served the Summons and Complaint on Defendant in October of 2013. Defendant requested an extension of time with which to answer and Plaintiffs agreed to such. The Plaintiffs and Defendant attempted to settle the matter independent of court intervention but were unsuccessful.

Defendant filed an Answer on November 25<sup>th</sup> of 2013. Plaintiffs filed an Amended Complaint on December 13<sup>th</sup> of 2013. Defendant filed an Answer to the Amended Complaint on January 6<sup>th</sup> of 2014.

Plaintiffs requested and the Court granted a pre-motion conference on February 11<sup>th</sup> upon which to discuss a motion seeking preliminary relief. At the pre-motion conference the Court granted Plaintiffs request to file the motion and fashioned a February 18<sup>th</sup> 2014 deadline upon which to file such.

The Plaintiffs NOW petition the Court for an Order, effective for the duration of the current action, preventing the Defendant from continuing to sell Plaintiffs' US trademarked Sea-Monkeys® product.

### **MOTION**

The Plaintiffs, in the interests of Justice and so as to prevent a manifest injustice from being recurrently visited upon the Plaintiffs, do NOW hereby move the Court, in consideration of the annexed MEMORANDUM OF POINTS AND AUTHORITIES and the full weight and credence of the PLEADINGS with accompanying materials, to GRANT the preliminary injunctive relief as stated below and contained in the attached Proposed Order; WHEREFORE, Plaintiffs respectfully request the following injunctive relief:

- (1) The issuance of an Order of the Court effective for the duration of this lawsuit requiring that the Defendant immediately cease selling, marketing, and/or producing any of Plaintiffs' trademarked products, including but not limited to Sea-Monkeys® Properties;
- (2) The issuance of a preliminary injunction by the Court prohibiting any continuing use of Plaintiffs' trademarks or copyrights by the Defendant for the duration of this lawsuit;
- (3) and any such other and further relief as the Court may deem just and proper.

Respectfully Submitted,

By: s/ William Timmons  
William Timmons, Esq.  
25 Candee Avenue  
Sayville, New York 11782  
(631) 750-5980

Attorneys for Plaintiffs  
TRANSCIENCE CORPORATION & YOLANDA VON BRAUNHUT  
Dated: February 18, 2014

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

<hr/>		X	
TRANSCIENCE CORPORATION &	:		
YOLANDA VON BRAUNHUT (individual)	:		
Plaintiffs	:	Index No.:	13 CV 6642
	:		
-against-	:		
	:		<b>CERTIFICATE OF SERVICE</b>
	:		
BIG TIME TOYS, LLC	:		
Defendant.	:		
<hr/>		X	

**CERTIFICATE OF SERVICE**

I hereby certify that on February 18<sup>th</sup> of the year 2014, I caused a true and correct copy of **Notice of Motion for Preliminary Injunctive Relief, Plaintiffs' Motion for Preliminary Injunctive Relief, Memorandum of Points and Authorities, Affidavit of William Timmons, Esq., and Proposed Order** to be filed with the Clerk of the Court using the CM//ECF system, and have sent via US Mail a true and correct copy of said **Notice of Motion for Preliminary Injunctive Relief, Plaintiffs' Motion for Preliminary Injunctive Relief, Memorandum of Points and Authorities, Affidavit of William Timmons, Esq., and Proposed Order** to the Defendant's counsel of record located at the following address:

Dakotiis, Fizpatrick & Cole  
Attn: John A. Stone & Jeffrey G. Kramer  
Glenpointe Centre West  
500 Frank W. Burr Boulevard, Ste.31  
Teaneck, NJ 07666

Respectfully Submitted,

By: s/ William Timmons  
William Timmons, Esq.  
25 Candee Avenue  
Sayville, New York 11782  
(631) 750-5980

Attorneys for Plaintiffs  
TRANSCIENCE CORPORATION & YOLANDA VON BRAUNHUT

Dated: February 18, 2014